

REMARKS

Introductory Comments:

Claims 1, 2, 4, and 5 were examined in the Final Office Action dated April 11, 2007.

The Applicants filed a response and a Notice of Appeal on September 10, 2007, and the Examiner mailed an Advisory Action on October 3, 2007, and an Examiner Interview on February 25, 2008

SUPPORT FOR AMENDMENTS

The applicants have amended claim 1 to recite “fixed breast tissue sample or a frozen breast tissue” and to recite that comparing is to a “reference normal breast tissue sample.” The amendment finds support throughout the specification, such as, for example, in Figures 5A-5C illustrating data from assays for receptor heterodimers on human normal and tumor breast tissue samples.

Claim 1 has been amended to recite “the patient” thereby correcting for antecedent basis.

The preamble of claim 2 has been amended to recite “of” instead of “or” as follows “amount or amounts of said Her-1-Her-2 or Her2-Her-3 complexes..” The amendment corrects for a minor typographical error.

Accordingly, no new matter has been added by way of this amendment and the entry thereof is respectfully requested.

STATEMENT OF SUBSTANCE OF INTERVIEW

Applicants thank the Examiner for her time during a telephone interview on February 25, 2008. Present for the interview were Examiner Laura B. Goddard, Ph.D. and Applicant's representative, Tom Anderton. No exhibits or demonstrations were presented or discussed. During the interview, claims 1 and 4 were discussed and agreement was reached to overcome the enablement rejections.

Tom Anderton indicated that claims might be amended to recite breast tissue samples and reference normal breast tissue. Examiner Goddard indicated that she would consider the amendment and that the amendment would overcome the rejection. The applicants also agreed to file the amendment in an RCE.

Rejections of the Claims Under 35 U.S.C. §112, first paragraph

The Examiner rejected claims 1, 2, 4, and 5 under 35 U.S.C. §112, second paragraph, as allegedly not being enabled..

The applicants have amended the claims to recite breast tissue samples and reference normal breast tissue. The amendment overcomes the rejection, and the Examiner is respectfully requested to withdraw the rejection.

CONCLUSION

Applicants respectfully submit that the claims define an invention that is patentable over the art, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicants' representative at (650) 335-7818.

Respectfully submitted,
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Dated: April 9, 2008

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